

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re Application of Benjamin Steinmetz for  
an Order to Take Discovery from Vale S.A.  
Vale Americas Inc., Rio Tinto plc, and Rio  
Tinto Limited Pursuant to 28 U.S.C. § 1782

Case No. 1:20-mc-00212-AJN

**DECLARATION OF JEFFREY A. ROSENTHAL IN SUPPORT OF VALE S.A. AND  
VALE AMERICAS INC.'S MEMORANDUM OF LAW IN OPPOSITION TO THE  
APPLICATION OF BENJAMIN STEINMETZ FOR AN ORDER TO TAKE  
DISCOVERY PURSUANT TO 28 U.S.C. § 1782 AND VALE S.A.'S CONDITIONAL  
CROSS-APPLICATION TO COMPEL RECIPROCAL DISCOVERY  
PURSUANT TO 28 U.S.C. § 1782**

I, Jeffrey A. Rosenthal, pursuant to 28 U.S.C. § 1746 hereby declare under penalty of perjury as follows:

1. I am an attorney licensed to practice law in the State of New York and a partner at Cleary Gottlieb Steen & Hamilton LLP, counsel for Vale S.A. and Vale Americas Inc. (collectively, "Vale") in the above-captioned action. I respectfully submit this Declaration and the attached Exhibits in support of Vale's Memorandum of Law in Opposition to the Application of Benjamin Steinmetz for an Order to Take Discovery Pursuant to 28 U.S.C. § 1782 and Conditional Cross-Application to Compel Reciprocal Discovery Pursuant to 28 U.S.C. § 1782.
2. Attached hereto as Exhibit 1 is a true and correct copy of the Proposed Subpoena to Testify at a Deposition in a Civil Action directed to Benjamin Steinmetz.
3. Attached hereto as Exhibit 2 is a true and correct copy of the Proposed Subpoena to Testify at a Deposition in a Civil Action directed to Dr. Avi Yanus.

4. Attached hereto as Exhibit 3 is a true and correct copy of the LCIA Tribunal's award in Vale S.A. v. BSG Resources Ltd., LCIA Arbitration No. 142683 (the "Award"), dated April 4, 2019.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Particulars of Claim in Vale S.A. & Ors v. Steinmetz & Ors, Claim No. CL-2019-000723 (the "Particulars of Claim"), dated January 15, 2020.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Recommendation Concerning the Titles and Mining Agreement Held by the Company VBG, Republic of Guinea Technical Committee Report, dated March 21, 2014.

7. Attached hereto as Exhibit 6 is a true and correct copy of an order from the High Court of Justice, Business and Property Courts of England and Wales Commercial Court (QBD) (the "High Court") granting Vale permission to enforce the Award in Vale S.A. v. BSG Resources Ltd., Claim No. CL-2019-00269, dated May 9, 2019.

8. Attached hereto as Exhibit 7 is a true and correct copy of Vale S.A. v. BSG Resources Ltd., No. 19-cv-3619-VSB (S.D.N.Y.), ECF No. 51, dated March 5, 2020.

9. Attached hereto as Exhibit 8 is a true and correct copy of the worldwide freezing order granted by the High Court in Vale S.A. & Ors v. Steinmetz & Ors, Claim No. CL-2019-000723, dated December 3, 2019.

10. Attached hereto as Exhibit 9 is a true and correct copy of an order of the High Court directing Defendants to challenge the worldwide freezing order by February 7, 2020 in Vale S.A. & Ors v. Steinmetz & Ors, Claim No. CL-2019-000723, dated December 16, 2019.

11. Attached hereto as Exhibit 10 is a true and correct copy of the Defence of the First Defendant in Vale S.A. & Ors v. Steinmetz & Ors, Claim No. CL-2019-000723 (“the Defence of Steinmetz”), dated May 1, 2020.

12. Attached hereto as Exhibit 11 is a true and correct copy of the Letter Motion to Dismiss in Rio Tinto plc v. Vale S.A., No. 14-cv-3042 (RMB) (AJP) (S.D.N.Y.), ECF No. 84, dated September 3, 2014.

13. Attached hereto as Exhibit 12 is a true and correct copy of Beny Steinmetz Seeks to Reverse \$2bn Arbitration Award to Vale, authored by Neil Hume and published by Financial Times, dated May 24, 2020.

14. Attached hereto as Exhibit 13 is a true and correct copy of the letter from Cleary Gottlieb Steen & Hamilton to Asserson Law Offices, dated January 15, 2020.

15. Attached hereto as Exhibit 14 is a true and correct copy of the hearing transcript in Rio Tinto plc v. Vale S.A., No. 14-cv -3042 (RMB) (AJP) (S.D.N.Y.), dated April 8, 2015, ECF No. 235.

16. Attached hereto as Exhibit 15 is a true and correct copy of Beny Steinmetz Gets Rough Over Guinea Deal, authored by Danny Fortson and published by The Sunday Times, dated June 21, 2020.

17. Attached hereto as Exhibit 16 is a true and correct copy of Billionaire Claims Vale Knew Guinea Mining Deal Was Corrupt, authored by Caroline Simson and published by Law 360, dated June 1, 2020.

18. Attached hereto as Exhibit 17 is a true and correct copy of Steinmetz’s BSGR Seeks to Reopen \$1.25 Billion Guinea Ruling, co-authored by Zandi Shabalala and Helen Reid and published by Reuters, dated May 22, 2020.

19. Attached hereto as Exhibit 18 is a true and correct copy of the Respondent's Request to Produce, Vale S.A. v. BSG Resources Ltd., LCIA Arbitration. No. 142683 (the "LCIA Redfern"), dated July 15, 2015.

20. Attached hereto as Exhibit 19 is a true and correct copy of Plaintiff's First Set of Document Requests to Vale S.A. in Rio Tinto plc v. Vale S.A., No. 14-cv-2042 (RMB) (S.D.N.Y.) ("Rio Tinto's First Requests for Production"), dated June 30, 2014.

21. Attached hereto as Exhibit 20 is a true and correct copy of Plaintiff's Second Set of Document Requests to Vale S.A. in Rio Tinto plc v. Vale S.A., No. 14-cv-2042 (RMB) (S.D.N.Y.) ("Rio Tinto's Second Requests for Production"), dated January 29, 2015.

22. Attached hereto as Exhibit 21 is a true and correct copy of the letter from Cleary Gottlieb Steen & Hamilton LLP to Asserson Law Offices, dated March 24, 2020.

23. Attached hereto as Exhibit 22 is a true and correct copy of the email from J. Terceno to Mishcon de Reya, dated February 16, 2016.

24. Attached hereto as Exhibit 23 is a true and correct copy of the Fraud Act 2006, c. 35 (Eng.).

25. Attached hereto as Exhibit 24 is a true and correct copy of Loi No. 68-678 du 26 juillet 1968 relative à la communication de documents et renseignements d'ordre économique, commercial, industriel, financier ou technique à des personnes physiques ou morales étrangères [Law No. 68-678 of July 26, 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to foreign natural persons or legal entities], Légifrance.gouv.fr (the "French Blocking Statute"), with English translation.

26. Attached hereto as Exhibit 25 is a true and correct copy of the French Penal Code, Section 1 : De l'atteinte à la vie privée [C. PÉN.] [Invasion of Privacy] Articles 226-1 and 226-2 (Fr.), with English translation.

27. Attached hereto as Exhibit 26 is a true and correct copy of the judgment of the Cour de cassation [Cass.] [supreme court for judicial matters] crim., Dec. 12, 2007, Bull. crim., No. 309 (Fr.) ("In re Advocate Christopher X"), with English translation.

28. Attached hereto as Exhibit 27 is a true and correct copy of Article 307 of the Brazilian Criminal Code, Decreto-Lei No 2.848, de 7 de Dezembro de 1940 (Braz.), dated December 7, 1940, with English translation.

29. Attached hereto as Exhibit 28 is a true and correct copy of Mining Billionaire Gets Help From Ex-Spies in Bitter Legal Fight, authored by Thomas Biesheuvel and published by Bloomberg on May 22, 2020.

30. Attached hereto as Exhibit 29 is a true and correct copy of Black Cube: The Bumbling Spies of the 'Private Mossad', co-authored by Bradley Hope and Jacquie McNish and published by The Wall Street Journal on June 18, 2019.

31. Attached hereto as Exhibit 30 is a true and correct copy of The Black Cube Chronicles: The Private Investigators, authored by Ronan Farrow and published by The New Yorker on October 7, 2019.

32. Attached hereto as Exhibit 31 is a true and correct copy of the letter from Jeffrey A. Rosenthal to Kobre & Kim, dated May 22, 2020.

33. Attached hereto as Exhibit 32 is a true and correct copy of the letter from Jeffrey A. Rosenthal to Kobre & Kim, dated May 23, 2020.

34. Attached hereto as Exhibit 33 is a true and correct copy of the letter from Jeffrey A. Rosenthal to Josef M. Klazen, dated May 27, 2020.

35. Attached hereto as Exhibit 34 is a true and correct copy of the letter from Kobre & Kim to Jeffrey A. Rosenthal, dated May 28, 2020.

36. Attached hereto as Exhibit 35 is a true and correct copy of the Consent Order from the High Court in Vale S.A. & Ors v. Steinmetz & Ors, No. CL-2019-000723, dated June 22, 2020.

I declare pursuant to 28 U.S.C. § 1746 under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed: New York, New York  
June 26, 2020

/s/ Jeffrey A. Rosenthal

Jeffrey A. Rosenthal